

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





75-1009<sup>B</sup><sub>P/S</sub>

IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

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DOCKET NO. 75-1009

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UNITED STATES OF AMERICA

Plaintiff-Appellee

VS.

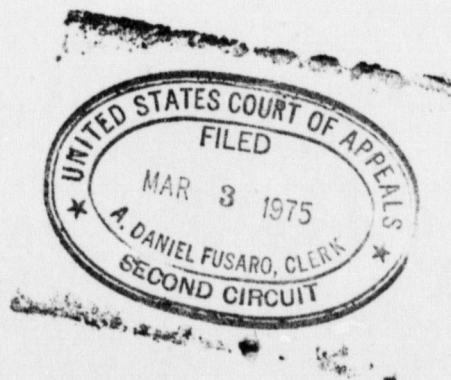
GEORGE H. BENNETT, JR.

Defendant-Appellant

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A P P E N D I X

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JOHN A. ACAMPORA, ESQ.  
109 CHURCH STREET  
NEW HAVEN, CONN. 06510

Counsel for Defendant-Appellant  
George H. Bennett, Jr.

PAGINATION AS IN ORIGINAL COPY



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# STANDARD

CLOSED 12/17/73

092173-139

**TITLE OF CASE**

## ATTORNEYS

**For U.S.:**

U.S.

GEORGE HENRY BENNETT, Jr.

*For Defendant:*

Raymond Sobota, Esq.  
515 United Penn Bank Bldg  
Wilkes Barre, Pa. C/A  
Telephone 822-8163

1973	DATE	PROCEEDINGS
Sept	21	1- INDICTMENT (2 Counts) A TRUE BILL JS2 oo3
Sept	21	2- ORDER FOR WARRANT - for the arrest of the deft under the bail re- form Act. (WJN) WARRANT ISSUED AND HANDED TO THE US MARSHAL w/cc of Indictment/
Sept	24	3- NOTICE OF ARRAIGNMENT - set for 10-18-73 at 10:00 AM at W.B. Pa. also letter re attorney.
Oct.	4	4- PETITION & WRIT OF HC - Ad Pros. to produce deft. from Albany County Jail on 10/18/73 at 10:00 at Wilkes-Barre. (N)
"	16	5- FINANCIAL AFFIDAVIT
		over

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CRIMINAL DOCKET  
UNITED STATES DISTRICT COURT

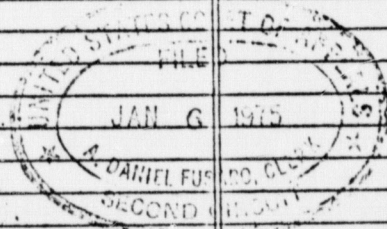
73-CR 219

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D. C. Form No. 100 Rev.

TITLE OF CASE		ATTORNEYS
C <del>DOCKET</del>	THE UNITED STATES	For U. S.:
C L O S E D	vs.	James M. Sullivan, Jr Brennan
GEORGE HENRY BENNETT, JR		
R20 MD Pa		For Defendant: John T. Biscone, Jr

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.
J.S. 2 mailed	Clerk			
J.S. 3 mailed	Marshal			
Violation	Docket fee			
Title				
Sec.				



DATE	PROCEEDINGS
1973 Dec 27 ✓	Filed Indictment-order for warrant, petition for writ, financial statement, C 5, minutes of trial or hearing, consent to transfer, docket sheet
1974 Jan 3 ✓	Filed Order and petition for writ Issued writ for habeas corpus-Albany Jan 7
Jan 9 ✓	Filed writ, ex Jan 7-Albany
Jan 7	Defendant is arraigned and pleads guilty to counts one and two. Presentence investigation ordered. Sentence deferred.
Jan 31 ✓	Filed order for writ Issued writ, Feb 4, Albany
Feb 5 ✓	Filed writ-ex Feb 4, Albany
Feb 4	The Court advised the defendant of his right to speak in his own behalf, de spoke, his attorney spoke. Defendant is sentenced to be confined in any inst designated by the Attorney General for a period of two years, concurrent on of the two counts. This sentence is to commence upon his release from confi on the charge he is now serving. Sentence to be served in Albany County Jail. Remanded to custody of Marshal. JTF
Feb 7 ✓	Filed Judgment-3 copies-2 to Probation office, 1 to Marshal's office
Mar 13 ✓	Filed petition of deft-Notice of Appeal filed without fee-
✓	Filed Judge Foley's Memorandum-decision and order that notice of appeal was



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PROCEEDINGS

- filed without fee and processed, certifying appeal is not taken in good faith.
- 3 Sent copy of docket entries and copy of notice of appeal to CCA
- 16 Sent Certified copy of record on appeal to CCA, 2nd Cir.
- ✓ Filed recpt for papers CCA
- 15 ✓ Filed Judge Foley's Memorandum-Decision and Order that Notice of Appeal was untimely,  
✓ Notice of petition for admission to bail and is frivolous, petition denied and dismissed
- 22 Filed Commitment-ex Apr 17, FCI, Danbury, Conn
- 74 ✓ Filed copy of Notice of Withdrawal of Appeal
- 10/74 Filed transcript of sentencing of deft. on Feb. 4, 1974 before Judge Foley.
- 5 ✓ Filed transcript of proceedings on January 7, 1974 at Albany

XXXXXXXXXX

15

UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

092073-130

UNITED STATES OF AMERICA :

VS.

NO. CRIMINAL  
: VIO: 18 U.S.C. 2312

GEORGE HENRY BENNETT, JR. :

I N D I C T M E N T

THE GRAND JURY CHARGES:

Count I

That on or about March 27, 1973, PER

GEORGE HENRY BENNETT, JR.

did transport in interstate commerce a stolen motor vehicle, to wit, a 1973 FORD, LTD, bearing 1973 Colorado License Plate RR2576, from Denver, State of Colorado to Avoca, Luzerne County, Commonwealth of Pennsylvania, in the Middle District of Pennsylvania, and within the jurisdiction of this Court, knowing the same to have been stolen.

In violation of Title 18 United States Code,  
Section 2312.

THE GRAND JURY FURTHER CHARGES:

Count II

That on or about May 2, 1973,

GEORGE HENRY BENNETT, JR.

did transport in interstate commerce a stolen motor

FILED  
SEP 21 1973  
DONALD R. BERRY, Clerk  
DEPUTY CLERK  
73 CR 219



vehicle, to wit, a 1973 DODGE POLARA, bearing 1973 New York License Plate 72Z-323, from Avoca, Luzerne County, Commonwealth of Pennsylvania, to Selkirk, State of New York, knowing the same to have been stolen.

In violation of Title 18 United States Code, Section 2312.

A TRUE BILL

John Moran  
Foreman

Date Sept. 19, 1973

John Costello  
United States Attorney

092008-138

UNITED STATES OF AMERICA

VS.

GEORGE HENRY BENNETT, JR.

PLEA

Now, this 17th day of October, 1973, the  
within named defendant, GEORGE HENRY BENNETT, JR., having been  
assigned to open Court, hereby pleads not guilty to the  
within Indictment.

INDICTMENT

S. JOHN COTTON  
U. S. ATTORNEY  
POST OFFICE BUILDING  
SCRANTON, PENN. 18501

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DATE: Oct. 18, 1973

USA

y.

       day of Trial or  
Hearing

Nature of Hearing Arrangement

Time Commenced 11:45 A.M. Time Terminated 12 P.M.

PLAINTIFF:

## APPEARANCES

DEFENDANT:

Atty. James Mackes

Willy Ray Sabota  
(Court-Appx.)

PLAINTIFF'S WITNESSES:

DEFENDANT'S WITNESSES:

[illegible][illegible]

Remarks: Depth from 100 to 150 fathoms

Disposition: Open - Not Available

OCT 18 1973

June, Trial - Nov. 12, 1972 - DONALD M. BUCKLEY, Clerk  
PER *[Signature]* DEPUTY CLERK

Presently incarcerated at Albany Prison

UNITED STATES OF AMERICA

vs

GEORGE HENRY BENNTT, Jr.

U. S. DISTRICT COURT  
N. D. OF N. Y.

FILED

DEC 30 1974

AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M.  
J. R. SCULLY, Clerk  
ALBANY.

73-Cr-219

Sentence

February 4th, 1974.

9a



1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF NEW YORK  
3 -----X

4 UNITED STATES OF AMERICA, :

5 - against - :

73-Cr-219

6 GEORGE HENRY BENNETT, JR., :

7 Defendant. :

8 -----X

9  
10 The sentencing in the above-entitled matter  
11 was held pursuant to notice at the United States District  
12 Court in and for the Northern District of New York,  
13 at Albany, New York, on February 4th, 1974, before  
14 HON. JAMES T. FOLEY, U. S. District Judge.  
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## 1 A P P E A R A N C E S:

2 HON. JAMES M. SULLIVAN, Jr. United States  
3 Attorney for the Northern District of New York,  
4 Federal Building, Syracuse, New York, By: PAUL V.  
5 FRENCH, ESQ., Assistant U. S. Attorney, Of Counsel,  
6 appearing in behalf of the Government;

7 - and -  
8

9 JOHN T. BISCONI, Jr. ESQ., Albany, New York,  
10 appearing in behalf of the Defendant.

11 Defendant in person.  
12

13 - - - - -

14 THE CLERK: United States against George  
15 Henry Bennett, Jr., 73-Cr-219.

16 THE COURT: All right, Mr. French.

17 MR. FRENCH: Now, if the Court please, this is  
18 a Rule 20 transfer from the Middle District of Pennsyl-  
19 vania, for purposes of sentencing on a plea to a two  
20 count indictment. The government moves the sentencing  
21 on that plea of guilty which took place before Your Honor  
22 on January 9, 1974. Government now moves the sentencing  
23 without recommendation.

24 THE COURT: All right, Mr. Biscone, you may speak  
25 for him.

MR. BISCONI: Thank you, Your Honor. Mr.



1 Bennett is a native of our area. His mother and sister  
2 still live in this area. I am sure the report indicates  
3 that he has suffered extensively for his conduct. I  
4 would like to point out to the Court that this case and  
5 so many of the other cases doesn't involve any physical  
6 violence. We have a stolen automobile here. Mr. Bennett  
7 has already served one year in Albany County jail. He  
8 was very cooperative with the local district attorney's  
9 office on the state charges on this said matter and he  
10 was instrumental in the State being able to arrest and  
11 investigate and convict a number of other individuals.

12 I would like to also point out that he volun-  
13 tarily pled to this under Rule 20 and saves the govern-  
14 ment the expense and problem of transporting him back  
15 and forth to Pennsylvania and also avoided a trial. I  
16 plead to the Court for any leniency that you can show to  
17 Mr. Bennett.

18 THE COURT: All right, Mr. Bennett you have  
19 the right to speak for yourself. Anything that you want  
20 to say?

21 THE DEFENDANT: Well, Your Honor, the only  
22 thing I want to say, my attorney has already stated the  
23 facts surrounding the case. I am presently serving  
24 time. I assure the Court if it did show leniency in this  
25 matter I can assure the Court there wouldn't be any

1 future incidents of this or any other criminal activity.  
2 I think at this time I have learned my lesson.

3 THE COURT: It is too bad. You have been in  
4 trouble a long time.

5 THE DEFENDANT: Well I found out that crime  
6 doesn't pay.

7 THE COURT: You are 31 now. You have had a  
8 hard life in the beginning but you should try to overcome  
9 that. You have better than average intelligence and  
10 I don't know why you can't do better and stay out of  
11 these crimes because you have been in jail a lot.

12 THE DEFENDANT: I had plans with the advice  
13 of my counsel if I did get back out in society to get  
14 a job and settle down.

15 THE COURT: I hope you can. But with your  
16 record I have to sentence you. I am going to sentence  
17 you to a period of two years to a jail type institution  
18 designated by the Attorney General; that two years is  
19 concurrent on each of the two counts. That means you  
20 will be serving a two year sentence for each of these  
21 two thefts. And the sentence is to commence upon your  
22 release from confinement on the charge you are now serv-  
23 ing, the confinement being in the Albany County jail.  
24 I hope somebody can help you in our institutions.

25 THE DEFENDANT: Your Honor is there any credit



1 for the time being lodged in the jail under the federal  
2 detainer that was on me.

3 THE COURT: That is probably a good question.  
4 I don't know.

5 THE DEFENDANT: It has been lodged since last  
6 September.

7 THE COURT: That is something the Bureau of  
8 Prisons will investigate and it probably will be credited  
9 to you. That is something your attorney should take  
10 up with the United States Attorney's office. They may  
11 know the answer.

12 MR. FRENCH: It was only a detainer, Judge,  
13 The time served now is on the State charge. I think  
14 your sentence shows that his time on these two convictions  
15 commences afterwards. He was brought to this  
16 court on each occasion by a writ, since he was in State  
17 custody, so he is not a federal prisoner as such.

18 THE COURT: If he was arrested in Pennsylvania  
19 and held there he would get credit for it.

20 MR. FRENCH: He would be given credit for any  
21 time he was directly being retained on these charges.

22 THE COURT: Were you held in Pennsylvania?

23 THE DEFENDANT: For approximately three or  
24 four weeks.

25 THE COURT: That time probably will be credited

1 to you and given jail time on this sentence -- any  
2 time held in federal custody. That is something that  
3 the Bureau of Prisons looks into. The other thing, I  
4 don't think you would be, because you were held here in  
5 this State charge -- you pled and were confined under  
6 that and just brought back on writs. That is probably  
7 clear to you. That is my judgment. That determina-  
8 tion will be made by the Bureau of Prisons. I remand  
9 you now to custody. Your federal sentence will commence  
10 at the end of your Albany County jail sentence.

11 THE DEFENDANT: Thank you, Your Honor.

12 THE COURT: I hope you can get yourself straight  
13 after you get out.

14 THE DEFENDANT: I will try.

15 THE COURT: That sentence is on two counts in  
16 one indictment.

17 MR. FRENCH: It was a two count indictment.

18 THE COURT: So it is concurrent on each of the  
19 two counts.

20 - - - - -

21 (Whereupon the matter was closed.)  
22  
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25



1  
2 REPORTER'S CERTIFICATION  
3

4 I, F. ROBERT JORDAN, Official Court Reporter  
5 for the United States District Court in and for the  
6 Northern District of New York, do certify the foregoing  
7 to be a true and accurate transcription of the steno-  
8 graphic notes as taken by me during the aforesaid  
9 proceedings.  
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11

12 F. Robert Jordan  
13 Official Court Reporter  
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RECEIVED

DEC 31 1974

U. S. DISTRICT COURT  
ALBANY, NEW YORK

U. S. DISTRICT COURT  
H. D. OF N. Y.  
FILED

JAN 2 1975

AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M.  
J. R. SCULLY, Clerk  
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1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF NEW YORK

3 -----  
4 UNITED STATES OF AMERICA

5 -against-

73-L-219

6 GEORGE HENRY BENNETT  
7 -----

8 The following proceedings took place on the  
9 7th day of January 1974, at the United States District  
10 Court, Federal Building, Albany, New York, before  
11 HONORABLE JAMES T. FOLEY, United States District Judge.

12 APPEARANCES:

13 JAMES M. SULLIVAN, JR.  
14 United States Attorney  
15 JCS EPH BRENNAN  
16 Assistant United States Attorney  
17 Of Counsel  
Attorney for U. S. of America  
Federal Building  
Albany, New York

18 DEFENDANT IN PERSON and by  
19 JOHN BISCONI, JR., ESQ. (John T. Bisconi)  
75 State Street  
Albany, New York

20 THE CLERK: United States of America versus  
21 George Henry Bennett.

22 MR. BRENNAN: Your Honor, on September 19,  
23 1973, the defendant George Henry Bennett was indicted  
24 in the Middle District of Pennsylvania and charged with  
25 two counts in that indictment of violation of Title 18

1. United States Code section 2312.

2. Subsequently he executed a consent to transfer  
3. under Rule 20, and following the appropriate procedure  
4. this matter was transferred to this district where it  
5. was given indictment number 73-CR-219.

6. The matter has been brought on this morning  
7. for disposition pursuant to Rule 20.

8. THE COURT: All right, Mr. Biscone.

9. MR. BISCONI: My client is ready to plead  
10. guilty to both counts of the indictment.

11. THE COURT: Which he must do.

12. MR. BISCONI: That has been explained to him.

13. THE COURT: How old are you, Mr. Bennett?

14. MR. BENNETT: 31.

15. THE COURT: How much education do you have?

16. MR. BENNETT: I have a high school education  
17. but I had electronic training through a company I worked  
18. for down in Saugerties in computers.

19. THE COURT: All right. The clerk is going to  
20. read each of these counts to you and you listen to them  
21. before you enter your plea and then plead.

22. (The Clerk of the Court read the two-count indictment)

23. CLERK: How do you plead?

24. MR. BENNETT: Guilty.

25. THE COURT: All right, Mr. Bennett, did you



1 commit those acts ? There are two different acts  
2 charged against you, did you do those things?

3 MR. BENNETT: Yes, Your Honor, I did.

4 THE COURT: Did you know what you were doing?  
5 Did you do them intentionally?

6 MR. BENNETT: Not directly, Your Honor, it was  
7 a matter of transportation to get back to New York, and  
8 then when I arrived in New York I was involved in the  
9 burglary, and at a later date in regard to the second  
10 count, this other individual that was involved with us  
11 instructed me to go to Pennsylvania to change cars, and  
12 we got the car, second car from Pennsylvania, and came  
13 back to New York, which resulted in the second burglary.

14 THE COURT: I have to find out, did you  
15 intentionally transport the car knowing it was stolen?

16 MR. BENNETT: Yes, I did.

17 THE COURT: Any question about that in your  
18 mind?

19 MR. BENNETT: No, Your Honor.

20 THE COURT: Did anybody put any pressure on you  
21 to plead guilty here?

22 MR. BENNETT: No.

23 THE COURT: Or make you any promises about  
24 your possible sentence?

25 MR. BENNETT: No, Your Honor.

1 THE COURT: Now you understand you have a  
2 right to go to trial by jury, the Government has to  
3 prove the charge in each of these counts beyond a  
4 reasonable doubt, you have a right to bring witnesses  
5 here in your own behalf, you understand that?

6 MR. BENNETT: I understand.

7 THE COURT: And you waive all those rights by  
8 pleading guilty here?

9 MR. BENNETT: Yes.

10 THE COURT: Now what penalties does he face  
11 on each of the counts?

12 MR. BRENNAN: The maximum statutory penalty  
13 on each count is a fine of not more than \$5,000. or a  
14 period of imprisonment of not more than five years, or  
15 both.

16 THE COURT: How old are you?

17 MR. BENNETT: 31.

18 THE COURT: You understand now, in each of  
19 these counts you face these statutory penalties?

20 MR. BENNETT: Yes, Your Honor.

21 THE COURT: You stand on your plea of guilty?

22 MR. BENNETT: Yes, Your Honor, I do.

23 THE COURT: I will order a pre-sentence  
24 investigation, defer sentence without date, but it  
25 should be brought on as soon as possible. He is in



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custody now?

MR. BISCONI: He is at the Albany County Penitentiary.

THE COURT: We will bring it on as quickly as possible. I remand him now to the custody of the United States Marshal.

\* \* \* \* \*

This is to certify that the foregoing record is a true and accurate transcript of the proceedings had at the time and place noted in the heading hereof.

*Merton L. Miller*

Official Reporter  
United States District Court  
Northern District of New York






FOR THE SECOND CIRCUIT

Docket No. 75-1009

CERTIFICATE OF SERVICE

  
John A. Acampora, Attorney for  
appellant, George Henry Bennett, Jr.

John A. Acampora, Attorney for  
appellant, George Henry Bennett, Jr.